

Ordinance No. 18310-09-2008

AN ORDINANCE INCREASING APPROPRIATIONS IN THE WATER AND SEWER FUND IN THE AMOUNT OF \$50,000 AND DECREASING THE UNRESERVED, UNDESIGNATED FUND BALANCE BY THE SAME AMOUNT, FOR THE PURPOSE OF INCREASING THE AMOUNT TO BE PAID TO WHITAKER, CHALK, SWINDLE & SAWYER, LLP, ("WHITAKER CHALK") TO ASSIST THE CITY IN MATTERS CONCERNING CONTRACTS FOR THE WATER DEPARTMENT AND TRANSPORTATION AND PUBLIC WORKS DEPARTMENT; PROVIDING FOR A SEVERABILITY CLAUSE; MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

That in addition to those amounts allocated to the various City departments for Fiscal Year 2007-2008 in the Budget of the City Manager, there shall also be increased appropriations in the Water and Sewer Fund in the amount of \$50,000 and decreasing the unreserved, undesignated fund balance by the same amount, for the purpose increasing the amount to be paid to Whitaker, Chalk, Swindle & Sawyer, LLP, ("Whitaker Chalk") to assist the City in matters concerning contracts for the Water Department and Transportation and Public Works Department.

SECTION 2.

That should any portion, section or part of a section of this ordinance be declared invalid, inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way impair the remaining portions, sections, or parts of sections of this ordinance, which said remaining provisions shall be and remain in full force and effect.

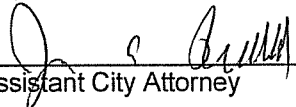
SECTION 3.

That this ordinance shall be cumulative of Ordinance No. 17749 and all other ordinances and appropriations amending the same except in those instances where the provisions of this ordinance are in direct conflict with such other ordinances and appropriations, in which instance said conflicting provisions of said prior ordinances and appropriations are hereby expressly repealed.

SECTION 4.

This ordinance shall take effect upon adoption.

APPROVED AS TO FORM AND LEGALITY:



Assistant City Attorney

ADOPTED AND EFFECTIVE: September 30, 2008

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 9/30/2008 - Res. No. 3662-09-2008 & Ord. No. 18310-09-2008

DATE: Tuesday, September 30, 2008

LOG NAME: 12WHITAKER 300

REFERENCE NO.: **G-16288

SUBJECT:

Adopt Resolution Authorizing Increase to the Maximum Amount to be Paid to the Law Firm of Whitaker, Chalk, Swindle and Sawyer, LLP, to Assist the City in Matters Concerning the Water Department and Transportation and Public Works Contracts in an Amount Not to Exceed \$50,000.00 and Adopt Appropriation Ordinance

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached supplemental appropriation ordinance increasing appropriations in the Water and Sewer Fund by \$50,000.00 and decreasing the unreserved, undesignated fund balance by the same amount; and
2. Adopt a resolution increasing the maximum amount to be paid to Whitaker, Chalk, Swindle and Sawyer, LLP, by \$100,000.00 to assist the City in matters concerning the Water Department and Transportation and Public Works contracts relation to premature street failures.

DISCUSSION:

By adopting M&C G-15239 on June 20, 2006, the City Council approved Whitaker, Chalk, Swindle and Sawyer, LLP (Whitaker Chalk), to assist the City with various legal issues regarding the City's Water Department and Transportation and Public Works Department (TPW) contracts and authorized payment to Whitaker Chalk in an amount not to exceed \$50,000.00.

M&C G-15680, adopted on April 17, 2007, increased the authorized amount to \$150,000.00 and on September 25, 2007, M&C G-15873 was adopted to increase the authorized amount to \$200,000.00. M&C G-16055, adopted February 19, 2008, increased the authorized amount to \$250,000.00. To date, Whitaker Chalk has billed the City \$243,997.75 for its services. Various matters concerning Water Department and TPW contracts and representation of the City in litigation concerning such matters are still pending. Because of the extraordinary importance of the issues raised, it is the recommendation of the City Attorney to authorize an additional sum of \$100,000.00 to Whitaker Chalk for their services concerning those matters not to exceed \$350,000.00.

Since the last increase counsel have been negotiating arbitration agreements with various contractors. This M&C is to increase the amount to be paid to Whitaker Chalk for these matters and general construction issues. Fees for litigation lawsuit costs will be addressed under a separate M&C.

FISCAL INFORMATION/CERTIFICATION:

The Financial Management Services Director certifies that upon approval of the above recommendations, funds will be available in the current operating budget, as appropriated, of the General Fund and Water and

Sewer Fund. Upon approval, the unaudited available cash balance of the Water and Sewer Fund will be \$8,521,439.46 which is the amount available above the minimum reserve cash balance of \$37,227,484.80 required by the City's Financial Management Policy Statements (i.e., 20 percent of the current-year adopted budget expenditures less debt service and capital projects).

TO Fund/Account/Centers

PE45 531200 0601000

\$50,000.00

FROM Fund/Account/Centers

GG01 539120 0905500

\$50,000.00

PE45 531200 0601000

\$50,000.00

Submitted for City Manager's Office by:

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